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File No. Irrigation II
Legal Department 50

B BRANCH

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Subject:—

Rules under the Bombay
Irrigation Act 1879

P.6
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File No. Irrigation II CRO

457-65

Legal Department.

As proposed rules are non-statutory it is not necessary for this Department to revise them. This Department will, however, be glad to give advice on any particular legal point which the Administrative Department may desire to refer to it.

Sd./ J.R.Durandhar.
25/4

a/a.
Additional Secretary to Government

U.R. TO P.W.D. No. 5633, dated the 25th April 1950.

Mk
dt. 21-6-'50.

21/6
K.S.R.
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Legal Department.

The draft amendment sent herewith would achieve the object in view.

J.R.Purandhar.

15/4.

o/o.

Additional Secretary to Government.

U.R.to P.W.D. No. 5171, dated the 15th April 1950.

MM

At. 21-6-'50.

NOTIFICATION.

Public Works Department,

Bombay Castle, April 1950.

Bombay Irrigation Act, 1879.

No. .- In exercise of the powers conferred by section 70 of the Bombay Irrigation Act, 1879 (Bom. VII of 1879), the Government of Bombay is pleased to amend the Bombay Canal Rules, 1934, as follows, namely:-

After rule 26 of the said Rules, the following shall be inserted, namely:-

"26A. Notwithstanding anything contained in rules 23 to 26, the said rules shall apply to the area comprising the Nira Canals Division subject to the modification that the reference to the "Executive Engineer" shall be construed as the reference to the "Deputy Engineer, Nira Canals Division."

By order of the Governor of Bombay,

Secretary to Government.

MM

dt. 21-6-'50.

Local Government.

A revised draft notification is sent herewith

2. Condition 8. The meaning of this condition is not understood. Probably what is intended is that the supply of water sanctioned previously to a block will be cancelled only if the application is made for such cancellation in the manner provided in the said condition. Condition 8 has been recast accordingly.

J.R.Purandhar
1/12

O.O.

Additional Secretary to Government.

U.R.to P.W.D. No. 17092, dated the 4th December 1950.

MM

dt. 21-6-'56.

Local Government.

The object which the Public Works Department has in view will not be achieved by merely prescribing form VII-A under section 70 of the Bombay Irrigation Act, 1879. Sub-rule (3) of rule 4 of the Bombay Canal Rules, 1934, provides for the six different cases in which the application is to be made to the Executive Engineer. Unless a rule is inserted so as to provide that an application for the supply of water for irrigation free of charge from the canals vesting in the Government and on which Government has not incurred any expenditure shall be made to the Executive Engineer, a mere prescription of Form VII-A after Form VII of the Bombay Canal Rules would not achieve the object in view.

2. Secondly it appears that some of the provisions of the Bombay Canal Rules are not to be made applicable to the supply of water made in virtue of the rules prescribed in P.W.D. G.R., No. 2360/36, dated the 21st August 1948. Moreover it is intended that if the applicant uses the water from the canals after expiry of the period of the agreement or makes any breach of the conditions of the supply of water, he is to be made liable for full water rates leviable under the Act and shall also be liable to the penalties imposed by the Act. These penalties cannot be legally enforced under the executive orders as provided in G.R., P.W.D., No.2360/36, dated the 21st August 1948 as is clear from the

provisions of section 7o(d) which provides for the making of rule regulating the amount of any charge to be made under the Act, and from the provisions of section 61(10) which provides that "who ever uses such water in an unauthorised manner shall, on conviction, be punished for each such offence which may extend to rupees fifty". There is nothing to show that the supply of water is made under the Bombay Irrigation Act or Rules thereunder. It is, therefor , necessary to embody the special set of rules under Part IX of the Bombay Canal Rules so that the penalty for the breach of rules can be legally enforced under the Act.

3. A revised draft notification is accordingly sent herewith which amends the Bombay Canal Rules embodying therein Part IX containing the special rules applicable to the cases under consideration and the new form VII-A containing the form of application which P.W.D. desires to prescribe. There is no objection if the rules embodied in Part IX are reproduced as conditions attached to the form of application.

J.R.Purandhar

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S/c.

Additional Secretary to Government.

U.R to P.W.D. No.6096 dt. 4th May 1956.
dt. 21-6-'56.